

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARIO A. PEREA,

Plaintiff,

v.

CIV No. 13-1020 GBW

CAROLYN W. COLVIN, *Acting
Commissioner of the Social Security
Administration,*

Defendant.

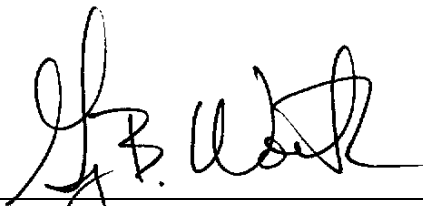
ORDER GRANTING MOTION FOR ATTORNEY FEES

On December 5, 2014, this Court granted Plaintiff's Motion to Reverse or Remand the Social Security Agency (SSA) Commissioner's denial of social security disability benefits and remanded the case to the Commissioner. *Doc. 25*. Plaintiff filed the instant Motion for Attorney Fees under the Equal Access to Justice Act (EAJA), on February 3, 2015. *Doc. 26*.

The EAJA states that "a court shall award to a prevailing party . . . fees and other expenses . . . incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action[.]" 28 U.S.C. § 2412(d)(1)(A). Plaintiff has requested \$4,567.20 in fees for 24.3 hours of work at rates of \$187 and \$188 per hour for the work done in this case. *Doc. 26* at 1-2, Exs. 1, 2. Defendant does not oppose Plaintiff's Motion. *Doc. 27*.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Fees Under the Equal Access to Justice Act, (*doc. 26*), is GRANTED. Plaintiff is hereby awarded \$4,567.20 in fees, payable to Plaintiff.

IT IS FURTHER ORDERED that, if Plaintiff's counsel receives attorney's fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

A handwritten signature in black ink, appearing to read 'G.B. Wormuth', is written over a horizontal line.

GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE
Presiding by consent